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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,643	10/06/2003	Hiroshi Hashimoto	8193	3939

7590 05/23/2005

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EXAMINER
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JOHNSON, VICKY A

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 05/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

7

<b>Office Action Summary</b>	<b>Application No.</b> 10/679,643	<b>Applicant(s)</b> HASHIMOTO ET AL.	
	<b>Examiner</b> Vicky A. Johnson	<b>Art Unit</b> 3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/30/04 &amp; 10/6/03</u> .   | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Drawings***

1. Figure 7 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The disclosure is objected to because of the following informalities: on page 2 line 1 "chain 3" should be --chain 103--; on pages 5, 6, and 14, the specification refers to the claims, but should not since the claims may be amended or canceled during the prosecution of the application; on pages 15 and 16 the list of reference numbers should be removed. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1 and 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 it is unclear what is meant by the phrase "a compression spring was slidably fitted". It is unclear if the inner body side unit is the same element as the inner body recited in claim 3. It appears as if the inner body and the inner body side unit are made up of the same elements.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Nakumura et al (US 5,913,742).

Nakumura et al disclose a body of said tensioner is composed of outer (2) and inner (21,23) bodies of different members; said outer body is provided with a tensioner mounting means (unnumbered flanges, see Fig 2) and an inner body fitting hole (2<sub>1</sub>); said inner body is provided with a plunger accommodating hole (27) into which a plunger biased by a compression spring (31) was slidably fitted, and a movement backward preventing mechanism for preventing the backward movement of said plunger is incorporated into said inner body (see Fig 2); said movement backward preventing mechanism comprises a rack (see Fig 2) formed on a part of the outer circumference of the plunger, a pawl body pivotably supported with a pivot shaft in a cutaway groove formed on a front end of said inner body (see Fig 2), and a spring (inherent), which biases a pawl of said pawl body so that the pawl engages the rack;

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and an inner body side unit composed of at least said inner body, said movement backward preventing mechanism, said compression spring and said plunger is adapted to be press-fitted and fixed into said inner body fitting hole of said outer body (see Fig 2).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura et al (US 5,913,742) in view of Namie et al (2002/0142871).

Nakamura et al disclose a tensioner as described above, but does not disclose the outer body made of plastic.

Namie et al teach the use of a tensioner having an outer body made of plastic (col. 4 ¶ 36).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the tensioner of Nakamura et al to include a plastic outer body as taught by Namie et al in order to ease assembly (col. 2 ¶ 10).

***Double Patenting***

9. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225

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USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

10. Claims 1 and 2 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2 of copending Application No. 10/914452. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are obvious variants in the breath and scope of the claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

11. Claims 1 and 2 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of copending Application No. 10/679644. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are obvious variants in the breath and scope of the claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### **Conclusion**

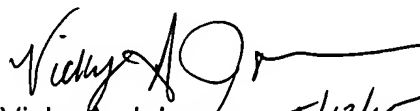
12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6,811,505	Hashimoto et al	(plastic body)
6,808,466	Yoshida et al	(inner/outer body)
5,746,643	Polster et al	(bushing)
6,685,587	Rossato et al	(inner body)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vicky A. Johnson whose telephone number is (571) 272-7106. The examiner can normally be reached on Monday-Friday (7:00a-3:30p).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Bucci can be reached on (571) 272-7099. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Vicky A. Johnson 5/13/15  
Examiner  
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